

BEFORE THE  
STATE BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. CC 2012-172

NEVILLE STANLEY COHEN

7415 Sean Taylor Lane  
San Diego, CA 92126  
Certificate of Registration No. 6419

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the State Board of Optometry, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 10, 2014.

It is so ORDERED August 8, 2014.

  
FOR THE STATE BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 SHERRY L. LEDAKIS  
Deputy Attorney General  
4 State Bar No. 131767  
110 West "A" Street, Suite 1100  
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*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**STATE BOARD OF OPTOMETRY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. CC 2012-172

12 **NEVILLE STANLEY COHEN**

13 7415 Sean Taylor Lane  
14 San Diego, CA 92126  
Certificate of Registration No. 6419

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

15  
16 Respondent.

17 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
18 interest and the responsibility of the State Board of Optometry of the Department of Consumer  
19 Affairs, the parties hereby agree to the following Stipulated Surrender and Disciplinary Order  
20 which will be submitted to the Board for approval and adoption as the final disposition of the  
21 Accusation.

22 **PARTIES**

23 1. Mona Maggio (Complainant) is the Executive Officer of the State Board of  
24 Optometry. She brought this action solely in her official capacity and is represented in this matter  
25 by Kamala D. Harris, Attorney General of the State of California, by Sherry L. Ledakis, Deputy  
26 Attorney General.

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2. Neville Stanley Cohen (Respondent) is represented in this proceeding by attorney  
Gidon Cohen, Adv., of Cohen, Segelev & Co., whose address is Twin Towers 1, 5th Floor  
Jabotinsky St., Gan, Israel 52511.

3. On or about September 11, 1978, the State Board of Optometry issued Certificate of Registration No. 6419 to Neville Stanley Cohen (Respondent). The Certificate of Registration was in full force and effect at all times relevant to the charges brought in Accusation No. CC 2012-172 and will expire on July 31, 2014, unless renewed.

## JURISDICTION

4. Accusation No. CC 2012-172 was filed before the State Board of Optometry (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 25, 2014. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. CC 2012-172 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. CC 2012-172. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. CC 2012-172, agrees that cause exists for discipline and hereby surrenders his Certificate of  
4 Registration No. 6419 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation he enables the Board to issue  
6 an order accepting the surrender of his Certificate of Registration without further process.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the State Board of Optometry.  
9 Respondent understands and agrees that counsel for Complainant and the staff of the State Board  
10 of Optometry may communicate directly with the Board regarding this stipulation and surrender,  
11 without notice to or participation by Respondent or his counsel. By signing the stipulation,  
12 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the  
13 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this  
14 stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of  
15 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between  
16 the parties, and the Board shall not be disqualified from further action by having considered this  
17 matter.

18 11. The parties understand and agree that Portable Document Format (PDF) and facsimile  
19 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures  
20 thereto, shall have the same force and effect as the originals.

21 12. This Stipulated Surrender of License and Order is intended by the parties to be an  
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
24 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
25 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
26 executed by an authorized representative of each of the parties.

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13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

## ORDER

IT IS HEREBY ORDERED that Certificate of Registration No. 6419, issued to Respondent Neville Stanley Cohen, is surrendered and accepted by the State Board of Optometry.

1. The surrender of Respondent's Certificate of Registration and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the State Board of Optometry.

2. Respondent shall lose all rights and privileges as an optometrist in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. CC 2012-172 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$4727.50 prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation CC 2012-172 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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7. Respondent shall not apply for licensure or petition for reinstatement for two (2) years from the effective date of the Board of Optometry's Decision and Order.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Gidon Cohen, Adv., of Cohen, Segelev & Co.. I understand the stipulation and the effect it will have on my Certificate of Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the State Board of Optometry.

DATED: JULY 6 2014 Neville Stanley Cohen  
NEVILLE STANLEY COHEN  
Respondent

I have read and fully discussed with Respondent Neville Stanley Cohen the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: JULY 6 2014 Gidon Cohen, Adv.  
GIDON COHEN, ADV.  
SEGELEV & CO.  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the State Board of Optometry of the Department of Consumer Affairs.

Dated: Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
Sherry L. Ledakis  
SHERRY L. LEDAKIS  
Deputy Attorney General  
Attorneys for Complainant

SD2013706012

**Exhibit A**

**Accusation No. CC 2012-172**

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 SHERRY L. LEDAKIS  
Deputy Attorney General  
4 State Bar No. 131767  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061  
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11 **STATE OF CALIFORNIA**

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13 **NEVILLE STANLEY COHEN**  
14 **7415 Sean Taylor Lane**  
**San Diego, CA 92126**

**A C C U S A T I O N**

15 **Certificate of Registration No. 6419**

16 **Respondent.**

17 Complainant alleges:

18 **PARTIES**

19 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as  
20 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

21 2. On or about September 11, 1978, the State Board of Optometry issued Certificate of  
22 Registration Number 6419 to Neville Stanley Cohen (Respondent). The Certificate of  
23 Registration was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on July 31, 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the State Board of Optometry (Board), Department  
27 of Consumer Affairs, under the authority of the following laws. All section references are to the  
28 Business and Professions Code unless otherwise indicated.



4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Pursuant to Code section 3147, an expired license may be renewed at any time within three years after its expiration.

5. Section 3090 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter or any of the regulations adopted by the board. The board shall enforce and administer this article as to licenseholders, including those who hold a retired license, a license with a retired volunteer designation, or an inactive license issued pursuant to Article 9 (commencing with Section 700) of Chapter 1, and the board shall have all the powers granted in this chapter for these purposes, including, but not limited to, investigating complaints from the public, other licensees, health care facilities, other licensing agencies, or any other source suggesting that an optometrist may be guilty of violating this chapter or any of the regulations adopted by the board.

#### STATUTORY PROVISIONS

6. Section 3007 states:

An optometrist shall retain a patient's records for a minimum of seven years from the date he or she completes treatment of the patient. If the patient is a minor, the patient's records shall be retained for a minimum of seven years from the date he or she completes treatment of the patient and at least until the patient reaches 19 years of age.

7. Section 3070 of the Code states:

(a) Before engaging in the practice of optometry, each licensed optometrist shall notify the board in writing of the address or addresses where he or she is to engage in the practice of optometry and, also, of any changes in his or her place of practice. After providing the address or addresses and place of practice information to the board, a licensed optometrist shall obtain a statement of licensure from the board to be placed in all practice locations other than an optometrist's principal place of practice. Any licensed optometrist who holds a branch office license is not required to obtain a statement of licensure to practice at that branch office. The practice of optometry is the performing or the controlling of any of the acts set forth in Section 3041.

8. Section 3110 of the Code states:

The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has

committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules and regulations adopted by the board pursuant to this chapter.

(e) The commission of fraud, misrepresentation, or any act involving dishonesty or corruption, that is substantially related to the qualifications, functions, or duties of an optometrist.

(g) The use of advertising relating to optometry that violates Section 651 or 17500.

(q) The failure to maintain adequate and accurate records relating to the provision of services to his or her patients.

(x) Failure or refusal to comply with a request for the clinical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, unless the licensee is unable to provide the documents within this time period for good cause.

9. Section 17500 of the Code states:

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation; or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine.

1 **REGULATORY PROVISION**

2 10. California Code of Regulations, title 16, section 1505 states:

3  
4 (b) Such notification of intention to engage in the practice of optometry  
5 includes notifying the Board of intention to accept employment to practice optometry,  
6 the name or names of the optometrist or optometrists, or those who by law may  
employ an optometrist and the address or addresses of the office or offices at which  
the licensee will be employed.

7 (c) Such notification of intention to engage in the practice of optometry  
8 includes notifying the Board prior to the establishment of any office or offices to  
9 practice optometry of the intention to establish such office or offices and the location  
or locations to be occupied.

10 **COST RECOVERY**

11 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
12 administrative law judge to direct a licentiate found to have committed a violation or violations of  
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
14 enforcement of the case. If the case settles the Board may seek reimbursement of their costs of  
15 investigation and prosecution of this case.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Fraud, Dishonesty or Corruption)**

18 12. Respondent is subject to disciplinary action for unprofessional conduct under section  
19 3110(e) of the Code for committing fraud, misrepresentation, or any act involving dishonesty or  
20 corruption, that is substantially related to the qualifications, functions, or duties of an optometrist.  
21 The circumstances are as follows:

22 **DM, O.D.**

23 13. In 2010, Respondent and another optometrist, DM., O.D., decided to combine their  
24 offices in one location in Escondido, California, in order to share the costs of overhead, staff, rent,  
25 and other expenses. It was agreed that both optometrists would operate their own individual  
26 practices, but share expenses.

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1 14. After a year of working at the same location, Respondent left DM., O.D.'s office and  
2 began to practice at another location in La Jolla, California, without informing the Board of his  
3 intention to move his place of practice. He began seeing patients at the new location, but told  
4 them to go to DM., O.D.'s office to pick up their spectacles. DM., O.D. had never agreed to this  
5 arrangement.

6 15. Without DM., O.D.'s knowledge, Respondent placed a Groupon advertisement which  
7 gave discounts on examinations and frames using DM., O.D.'s office address. Several patients  
8 came to DM., O.D.'s office and were extremely upset when they could not get the discount  
9 offered in the advertisement.

10 16. DM., O.D., was not able to locate Respondent. Several of Respondent's patients tried  
11 to obtain further treatment or their records from Respondent at DM., O.D.'s office, and could not  
12 because respondent was no longer there.

13 **Patient LW**

14 17. In June of 2012, Patient LW first went to see Respondent because of an advertisement  
15 Respondent placed in the newspaper for corneal refractive therapy (CRT). CRT consists of  
16 wearing contacts at night during sleep that gradually re-shape the cornea and thereby improve  
17 vision without the necessity of corrective surgery. It requires several follow-up appointments.  
18 LW paid Respondent \$1,600 for two CRT contacts, but only one contact had the accurate  
19 prescription, and then broke in four months time. The second contact was loose fitting and only  
20 moderately corrective. When LW called the La Jolla office for an appointment with Respondent  
21 she was told that he had left the practice for medical reasons and they did not know when he  
22 would return. She had not been informed that he was leaving, nor did he refer her to anyone else.  
23 She did not receive the care that she had paid for.

24 **Patient EW**

25 18. In September of 2012, Patient EW first saw Respondent for CRT. She paid him  
26 \$1,900.00 for the entire treatment. The first pair of contact lenses Respondent prescribed for her  
27 were the wrong prescription. The second pair of contacts he prescribed were regular contacts and  
28 not the therapy contacts. EW was very upset with Respondent and asked for a refund of her

1 money. Respondent put her off several times, then refused to take her calls, and then left the  
2 office with no forwarding contact information.

3 **Patient ST**

4 19. In May or June of 2013, Patient ST was not able to locate Respondent to complete  
5 CRT that Respondent had agreed to provide her. When she tried to make a follow-up  
6 appointment, she was told that he had left the practice. She was not able to obtain her clinical  
7 records to give to her new optometrist, or obtain reimbursement of the money she paid to  
8 Respondent for treatment he failed to provide. ST paid Respondent \$2,100.00 out of pocket for  
9 services he failed to complete.

10 **Patient NS-M**

11 20. In April of 2012, Patient NS-M sought treatment from Respondent for CRT. She  
12 received her last pair of lenses in August of 2012 at the La Jolla office. The last time she saw  
13 Respondent was in January of 2013 at the Escondido office. When she called to obtain a follow-  
14 up visit, she was told that there was limited availability for appointments. She waited until March  
15 or April of 2013 and then called the Escondido office for an appointment with Respondent. She  
16 was told that Respondent no longer worked out of the Escondido office and to contact him at the  
17 La Jolla office. When she called the La Jolla office, she was told that Respondent had an  
18 emergency health condition and that he was not available for appointments. When she called  
19 later, she was told that Respondent had retired, and that they did not know where to contact him.  
20 They also told her that no one at the La Jolla office performed CRT and they could not refer her to  
21 anyone who did CRT. Patient NS-M paid Respondent for services he did not provide. Patient  
22 NS-M was also unable to obtain her treatment records from Respondent to transfer to another  
23 optometrist.

24 **Patient DW**

25 21. On July 18, 2012, Patient DW went to see Respondent for CRT. He initially paid  
26 Respondent \$1,000.00 and then over the course of follow-up appointments, Patient DW paid  
27 Respondent an additional \$1,000.00. This was to include follow-up care for a year. Patient DW's  
28 last contact with Respondent was on November 15, 2012. When he called to make an

1 appointment with Respondent in January of 2013, he was told he was not available. Patient DW  
2 attempted to locate Respondent for six months without success. Respondent did not complete  
3 CRT treatment with DW.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct for Patient Abandonment)**

6 22. Respondent is subject to disciplinary action for unprofessional conduct under section  
7 3110 of the Code in that he abandoned his patients by failing to render services to them, by failing  
8 to provide them with their clinical records, and by failing to refer them to other providers to  
9 complete their care, as set forth above, in paragraphs 13 through 21, which are incorporated by  
10 reference.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Use of Advertising Related to Optometry that Violates Section 17500)**

13 23. Respondent is subject to disciplinary action for unprofessional conduct under section  
14 3110(g) of the Code in that he used advertising relating to optometry that violated Section 17500,  
15 because it was untrue or misleading, as set forth above in paragraphs 13 through 16, which are  
16 incorporated by reference.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Requests for Medical Records)**

19 24. Respondent is subject to disciplinary action for unprofessional conduct under section  
20 3110(x) of the Code in that he failed to provide patient records to the Board even with a signed  
21 release from the patient authorizing release of their records to the Board, within 15 days of  
22 receiving the request and authorization. The circumstances are as follows:

23 25. On August 8, 2013, an investigator for the Board sent a letter to Respondent requiring  
24 him to provide certified copies of the clinical records for Patients ST, NS-M and DW. The  
25 request included signed release forms from each patient. Respondent failed to supply the records.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Adequate and Accurate Medical Records)**

3 26. Respondent is subject to disciplinary action for unprofessional conduct under section  
4 3110(q) of the Code for failing to maintain adequate and accurate clinical records relating to his  
5 patients, as set forth above in paragraphs 13 through 23, which are incorporated by reference.

6 **SIXTH CAUSE FOR DISCIPLINE**

7 **(Failure to Inform the Board of Intention to Change Practice Locations)**

8 27. Respondent is subject to disciplinary action for unprofessional conduct under section  
9 3070 of the Code and CCR section 1505 for failing to inform the Board of his intention to change  
10 his place of practice prior to moving to the new location in La Jolla, and for failing to maintain a  
11 current address on file with the Board, as set forth above in paragraphs 13 through 21, which are  
12 incorporated by reference.

13 **SEVENTH CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct for Failing to Maintain Patient Files for Seven Years)**

15 28. Respondent is subject to disciplinary action for unprofessional conduct under  
16 section 3007 of the Code by failing to maintain his patient records for seven years, as set forth  
17 above in paragraphs 13 through 21.

18 **EIGHTH CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct for Vandalism and Hit and Run)**

20 29. Respondent is subject to disciplinary action for unprofessional conduct under section  
21 3110 of the Code in that he vandalized a car, and then hit another car with his car and left the  
22 scene without providing any information. The circumstances are as follows:

23 30. On June 17, 2013, the San Diego County Sheriff's Department was called at 2:02  
24 p.m. about a vandalism and hit and run accident. The witness had observed a man (later  
25 identified as Respondent) standing next to his mother's Mercedes. The witness observed  
26 Respondent key the side of the Mercedes in several places. The witness yelled at the man to stop  
27 and Respondent ignored him. The witness approached Respondent and asked him his name.  
28 Respondent told him it was "Neville." At this point, Respondent got into a gold colored Toyota

1 Camry, which was parked next to a blue Honda Civic in a handicap parking space. The witness  
2 began taking pictures with his cell phone of Respondent and his car. As Respondent was pulling  
3 out of the parking spot he hit the right rear bumper of the blue Honda Civic with the front driver's  
4 side of his Toyota Camry. Respondent then drove out of the parking lot. The witness called 911.  
5 Respondent was located driving his car. He was stopped by a Deputy Sheriff and identified by  
6 the witness.

7 31. Respondent spoke to the Deputy and told him that he drove to his psychologist's  
8 office located near where he parked in the parking lot. He asked his doctor if he could talk to him  
9 that day instead of Thursday. The doctor said no, and Respondent was so frustrated that after he  
10 left his psychologist's office he keyed the Mercedes. He told the Deputy that a man yelled at him  
11 to stop and was taking pictures of him so he got into his car and while he was trying to drive away  
12 he hit another car.

### 13 DISCIPLINE CONSIDERATIONS

14 32. To determine the degree of discipline, if any, to be imposed on Respondent,  
15 Complainant alleges that on or about January 26, 1986, in a prior disciplinary action entitled *In*  
16 *the Matter of the Accusation Against Neville Stanley Cohen, O.D.*, before the State Board of  
17 Optometry, in Case Number 86-01, Respondent's license was placed on three (3) years probation  
18 with several terms and conditions for employing an unlicensed person to perform eye  
19 examinations.

### 20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
22 and that following the hearing, the State Board of Optometry issue a decision:

- 23 1. Revoking or suspending Certificate of Registration Number 6419, issued to Neville  
24 Stanley Cohen;
- 25 2. Ordering Neville Stanley Cohen to pay the State Board of Optometry the reasonable  
26 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code  
27 section 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: March 19, 2014



MONA MAGGIO

Executive Officer

State Board of Optometry

Department of Consumer Affairs

State of California

Complainant

SD2013706012  
70805413.docx

RECEIVED

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DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
BOARD OF OPTOMETRY

Attorneys for Complainant

BEFORE THE BOARD OF OPTOMETRY

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

In the Matter of the Accusation  
Against:

NO. 86-01

NEVILLE STANLEY COHEN, O.D.  
164 North El Camino Real  
Encinitas, California 92024  
Certificate No. 6419

STIPULATION IN  
SETTLEMENT AND  
DECISION

Respondent.

IT IS HEREBY STIPULATED by and between the  
parties in the above-entitled matter as follows:

1. Accusation No. 86-01 is currently pending  
against Neville Stanley Cohen, O.D. (hereinafter referred  
to as "respondent"), before the Board of Optometry,  
Department of Consumer Affairs, State of California.

2. On February 3, 1986, Accusation No. 86-01  
was duly served upon respondent and, on February 11, 1986,  
a notice of defense was filed on behalf of respondent.

3. On or about September 22, 1978, respondent  
Neville Stanley Cohen was issued Certificate of Registration

1 number 6419 by the Board of Optometry. At all times

2 pertinent herein respondent's Certificate of Registration  
3 was in full force and effect.

4 4. Respondent is fully aware of the charges  
5 and allegations contained in Accusation No. 86-01, and he has  
6 been fully advised with regard to his rights in this matter  
7 by his attorney of record, Mr. Peter Herzog, Esq.

8 5. Respondent is fully aware of his right to a  
9 hearing on the charges and allegations contained in  
10 Accusation No. 86-01, his right to reconsideration, appeal,  
11 and any and all other rights which may be accorded him  
12 pursuant to the California Administrative Procedure Act.

13 6. Respondent hereby freely and voluntarily  
14 waives his rights to a hearing, reconsideration, appeal,  
15 and any and all other rights which may be accorded him  
16 pursuant to the California Administrative Procedure Act  
17 with regard to Accusation No. 86-01.

18 7. Respondent admits that cause exists to impose  
19 discipline upon Certificate of Registration number 6419, issued  
20 to respondent by the Board of Optometry pursuant to sections  
21 125, 3090, 3102, and 3103 of the Business and Professions Code  
22 in that respondent is guilty of unprofessional conduct by  
23 conspiring with an unlicensed person to violate provisions of  
24 the Business and Professions Code, assisting and aiding an  
25 unlicensed person to violate provisions of the Business and  
26 Professions Code by acting as his agent or partner, and  
27 employing an unlicensed optometrist to perform work for

1 which a certificate of registration is required as more  
2 particularly alleged hereinafter:

3 (a) That respondent employed one Long Tran on  
4 or about 1982 or 1983 to work as an optician in  
5 respondent's office then located on Navajo Road in  
6 La Mesa, California, and was aware that Long Tran  
7 was not licensed to practice optometry in the State  
8 of California.

9 (b) That at some later date respondent moved  
10 the location of his office or offices to the  
11 following two locations: 2624 El Camino Real,  
12 Carlsbad, California, and 164 El Camino Real,  
13 Encinitas, California. That Long Tran continued in  
14 respondent's employ after this move and worked in  
15 the office located in Carlsbad, California.

16 (c) That respondent employed Long Tran to  
17 conduct eye examinations on patients visiting the  
18 Navajo Road and Carlsbad offices even though  
19 respondent was aware that Long Tran was not  
20 licensed to practice optometry in the State of  
21 California. That the eye examinations referred to  
22 above constituted the practice of optometry under  
23 Business and Professions Code  
24 section 3041 and require a Certificate of  
25 Registration from the Board of Optometry in order  
26 to be lawfully performed in the State of  
27 California.

1 (d) That by reason of the matters alleged

2 above, Certificate of Registration number 6419  
3 issued to respondent is subject to disciplinary  
4 action pursuant to section 125 of the Business and  
5 Professions Code in that respondent conspired with  
6 a person not licensed to violate provisions of the  
7 Business and Professions Code.

8 (e) That by reason of the matters alleged  
9 above, Certificate of Registration number 6419  
10 issued to respondent is subject to disciplinary  
11 action pursuant to section 125 of the Business and  
12 Professions Code in that respondent with intent to  
13 aid or assist a person not licensed to violate  
14 provisions of the Business and Professions Code,  
15 acted as his agent or partner.

16 (f) That by reason of the matters alleged  
17 above, Certificate of Registration number 6419  
18 issued to respondent is subject to disciplinary  
19 action pursuant to section 3090 of the Business and  
20 Professions Code in that such conduct constitutes  
21 unprofessional conduct.

22 (g) That by reason of the matters alleged  
23 above, Certificate of Registration number 6419  
24 issued to respondent is subject to disciplinary  
25 action pursuant to section 3090 of the Business and  
26 Professions Code in that such conduct constitutes a  
27 violation of the applicable rules and regulations

1 promulgated by the Board of Optometry pursuant to  
2 Chapter 7 and in accordance with Chapter 3.5  
3 (commencing with Section 11340) of Part 1 of  
4 Division 3 of Title 2 of the Government Code.

5 (h) That by reason of the matters alleged  
6 above, Certificate of Registration number 6419  
7 issued to respondent is subject to disciplinary  
8 action pursuant to sections 3090, 3102 and 3103 of  
9 the Business and Professions Code in that  
10 respondent is guilty of unprofessional conduct in  
11 that he employed an unlicensed optometrist to  
12 perform work for which a Certificate of  
13 Registration is required.

14 WHEREFORE, IT IS STIPULATED that the Board may, without  
15 further notice or formal proceeding, issue and enter the  
16 following decision:

17 A. Certificate of Registration number 6419 issued to  
18 Neville Stanley Cohen, O.D., is revoked, provided, however, that  
19 the revocation is hereby stayed and respondent is placed on  
20 probation for a period of three (3) years upon the following  
21 terms and conditions:

22 1. Respondent shall limit his optometry  
23 practice to a single office location for the duration of  
24 the probationary period.

25 2. Respondent shall reimburse the Board,  
26 within thirty (30) calendar days from the effective  
27 date of the Board's decision, for the costs of

1 investigation as follows: 43.75 hours at \$69.00

2 per hour for a total of \$3,018.75.

3 3. Respondent shall comply with the Board's  
4 probation surveillance program, which, in respondent's  
5 case, provides for one (1) inspection of respondent's  
6 practice location per year at respondent's expense  
7 not to exceed two hundred dollars (\$200.00) per  
8 inspection.

9 4. Respondent shall obey all laws of the  
10 United States, State of California, and its  
11 political subdivisions, and all rules, regulations,  
12 and laws pertaining to his licensed practice.

13 5. Respondent shall submit quarterly  
14 declarations under penalty of perjury, stating  
15 whether there has been compliance with all the  
16 conditions of probation.

17 6. In the event respondent should leave  
18 California to reside or practice outside the State,  
19 respondent must notify the Board in writing of the  
20 dates of departure and return. Periods of  
21 residence or practice outside California will not  
22 apply to the reduction of this probationary period.

23 7. Upon successful completion of probation,  
24 respondent's certificate of registration will be  
25 fully restored.

26 8. If respondent violates probation in any  
27 respect, the Board, after giving respondent notice

1 and the opportunity to be heard, may revoke  
2 probation and carry out the disciplinary order that  
3 was stayed. If an accusation or petition to revoke  
4 probation is filed against respondent during  
5 probation, the Board shall have continuing  
6 jurisdiction until the matter is final, and the  
7 period of probation shall be extended until the  
8 matter is final.

9 B. This stipulation in settlement shall be effective  
10 only for purposes of settlement of Accusation No. 86-01  
11 currently pending against respondent and no other purpose and  
12 shall have no force and effect in any other proceeding.

13 C. This stipulation in settlement shall be subject to  
14 the approval of the Board of Optometry, Department of Consumer  
15 Affairs, State of California. If the Board fails to approve  
16 this stipulation in settlement, it shall be of no force and  
17 effect for either party.

18  
19 DATED: 7-10-86

Michael V. Abbott  
MIKE ABBOTT  
Executive Officer  
Board of Optometry  
Department of Consumer Affairs  
State of California

Complainant

20  
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24  
25 DATED: 6-26-86

Thomas S. Lazar  
THOMAS S. LAZAR  
Deputy Attorney General

Attorney for Complainant



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DATED:

6/21/86

*Neville Cohen*

NEVILLE STANLEY COHEN, O.D.

Respondent

DATED:

June 23, 1986

*Peter Herzog*

PETER HERZOG, ESQ.

Attorney for Respondent

DATED:

15 July 86

*Lawrence Thal*

LAWRENCE THAL, O.D.

Board President

1 JOHN K. VAN DE KAMP, Attorney General  
2 of the State of California

3 THOMAS S. LAZAR,  
4 Deputy Attorney General  
5 110 West A Street, Suite 700  
6 San Diego, California 92101  
7 Telephone: (619) 238-3327

8 Attorneys for Complainant

9 BEFORE THE BOARD OF OPTOMETRY  
10 DEPARTMENT OF CONSUMER AFFAIRS  
11 STATE OF CALIFORNIA

|                                    |   |            |
|------------------------------------|---|------------|
| 12 In the Matter of the Accusation | ) | NO.        |
| 13 Against:                        | ) |            |
| 14 NEVILLE STANLEY COHEN, O.D.     | ) | ACCUSATION |
| 15 164 North El Camino Real        | ) |            |
| 16 Encinitas, California 92024     | ) |            |
| 17 Certificate No. 6419            | ) |            |
| 18 Respondent.                     | ) |            |

19 Mike Abbott, for causes for discipline, alleges:

20 1. Complainant Mike Abbott makes and files this  
21 accusation in his official capacity as Executive Officer, Board  
22 of Optometry, Department of Consumer Affairs.

23 2. On or about September 22, 1978, respondent  
24 Neville Stanley Cohen was issued Certificate of Registration  
25 number 6419 by the Board of Optometry. At all times pertinent  
26 herein respondent's Certificate of Registration was in full  
27 force and effect.

3. The Certificate of Registration issued to  
respondent is subject to disciplinary action pursuant to

1 sections 125, 3090, 3101, 3102 and 17500 of the Business and  
2 Professions Code in that respondent is guilty of unprofessional  
3 conduct by conspiring with an unlicensed person to violate  
4 provisions of the Business and Professions Code assisting and  
5 aiding an unlicensed person to violate provisions of the  
6 Business and Professions Code by acting as his agent or partner,  
7 employing an unlicensed optometrist to perform work for which a  
8 certificate of registration is required, obtaining fees by fraud  
9 or misrepresentation, and providing services and selling  
10 products based on untrue or misleading information, as more  
11 particularly alleged hereinafter as follows:

12 4. That respondent employed one Long Tran on or  
13 about 1982 or 1983 to work as an optician in respondent's office  
14 then located on Navajo Road in La Mesa, California, and was  
15 aware that Long Tran was not licensed to practice optometry in  
16 the State of California.

17 5. That at some later date respondent moved the  
18 location of his office or offices to the following two  
19 locations: 2624 El Camino Real, Carlsbad, California, and 164  
20 El Camino Real, Encinitas, California. That Long Tran continued  
21 in respondent's employ after this move and worked in the office  
22 located in Carlsbad, California.

23 6. That respondent Cohen directed Long Tran to  
24 conduct eye examinations on patients visiting the Navajo Road  
25 and Carlsbad offices even though respondent was aware that Long  
26 Tran was not licensed to practice optometry in the State of  
27 California. That the eye examinations referred to throughout

1 this Accusation constitute the practice of optometry under  
2 Business and Professions Code section 3041 and require a  
3 Certificate of Registration from the Board of Optometry in order  
4 to be lawfully performed in the State of California.

5 7. Than on or about December of 1982, patient V.S.  
6 was given an eye examination by Long Tran, an unlicensed  
7 optometrist, at respondent's Navajo Road office. That at the  
8 time of said examination, Long Tran identified himself as a  
9 doctor. That after the examination, Long Tran called respondent  
10 at his office located at 164 North El Camino Real, Encinitas,  
11 California (hereinafter the "Encinitas office") and discussed  
12 the results of the eye examination with respondent. That after  
13 asking Long Tran some questions over the phone, and without ever  
14 examining patient V.S., respondent then prescribed contact  
15 lenses for patient V.S. That Long Tran then filled that  
16 prescription and provided patient V.S. with the lenses  
17 prescribed by respondent.

18 8. Patient V.S. purchased from Long Tran a pair of  
19 contact lenses she then believed to be Permalenses manufactured  
20 by the Cooper Company. Based on Long Tran's representations to  
21 patient V.S. that she had been given extended wear lenses,  
22 patient V.S. attempted to sleep with said lenses. This action  
23 resulted in irritation to the eyes of patient V.S. since the  
24 lenses she had received were standard soft contacts which must  
25 be cleaned and disinfected on a daily basis.

26 9. That on or about September 13, 1983, patient K.H.  
27 was given an eye examination by Long Tran, an unlicensed

1 optometrist, at respondent's office located at 2624 El Camino

2 Real, Carlsbad, California (hereinafter the "Carlsbad office").

3 At the time of the examination, Long Tran identified himself as  
4 a doctor and conducted the eye examination for the purpose of  
5 prescribing contact lenses for patient K.H. Long Tran  
6 thereafter provided contact lenses to patient K.H. billing her a  
7 total of \$225.00 for same.

8 10. That on or about September 20, 1983, patient K.H.  
9 was employed by Long Tran as a receptionist at respondent's  
10 Carlsbad office. That Long Tran was the only other person  
11 working in the office and that his duties included conducting  
12 eye examinations on patients visiting the Carlsbad office. That  
13 Long Tran represented to patient K.H. that he (Long Tran) and  
14 respondent were partners and that patient K.H. would be paid out  
15 of respondent's account. That after Long Tran left the Carlsbad  
16 office, respondent directed former patient, then receptionist,  
17 K.H. to inform anyone asking that Long Tran had left the state  
18 even though respondent knew this was not true.

19 11. That on or about October 6, 1983, patient R.M.H.  
20 was given an eye examination by Long Tran, an unlicensed  
21 optometrist, at respondent's Carlsbad office. At the time of  
22 said examination, Long Tran identified himself as a doctor.  
23 That on or about October 13, 1983, patient R.M.H. paid for and  
24 picked up the glasses prescribed by Long Tran.

25 12. That on or about October 8, 1983, patient M.R.  
26 was given an eye examination by Long Tran, an unlicensed  
27 optometrist, at respondent's Carlsbad office. Thereafter

1 Long Tran prescribed new lenses for patient M.R. which the  
2 latter picked up approximately three days later.

3 13. That on or about October, 1983, patient J.G. was  
4 given an eye examination by Long Tran, an unlicensed  
5 optometrist, at respondent's Carlsbad office. That Long Tran  
6 fitted patient J.G. for contact lenses for which patient J.G.  
7 paid Long Tran a total of \$325.00.

8 14. That on or about October 27, 1983, patient P.S.  
9 went to respondent's Carlsbad office to obtain a pair of  
10 extended wear contact lenses. That respondent's office was  
11 chosen because it was on an approved list of offices for which  
12 patient P.S.'s insurance company would pay a portion of the  
13 bill. That patient P.S. was given an eye examination by a man  
14 who identified himself as "Dr. Cohen". That patient P.S.  
15 described this person as an overweight Vietnamese man and  
16 later identified Long Tran as the person who had represented  
17 himself as "Dr. Cohen". That Long Tran conducted an eye  
18 examination of patient P.S.; a portion of said examination  
19 consisting of patient P.S. reading eye charts while looking  
20 through lenses until the letters on the chart were clear. That  
21 approximately ten days later, patient P.S. received her contact  
22 lenses from Long Tran. That on or about December of 1983,  
23 patient P.S. met the respondent (the real Dr. Cohen) for the  
24 first time. At that time respondent Cohen indicated to patient  
25 P.S. that Long Tran had left the area because of a family  
26 illness and would not be returning.

1 15. That on or about December 1983, patient S.B. went  
2 to respondent's Carlsbad office in order to obtain extended wear  
3 contact lenses. That patient S.B. had gone to respondent's  
4 office on the recommendation of patient P.S., the latter having  
5 already described Dr. Cohen as oriental. That Long Tran  
6 conducted an eye examination of patient S.B.; a portion of said  
7 eye examination consisted of Long Tran placing a machine in  
8 front of patient S.B.'s eyes and directing her to view an eye  
9 chart through the lenses in the machine and indicate when the  
10 letters on the chart appeared in focus. Thereafter, patient  
11 S.B. was informed by Long Tran that contact lenses would be  
12 ordered. Patient S.B. obtained the contact lenses approximately  
13 one week later at which time she made a partial payment for  
14 same.

15 16. That patient S.B. was hospitalized at Tri-City  
16 Hospital Emergency Room for enzyme burns of her eyes resulting  
17 from her cleaning the contact lenses provided her by Long Tran.  
18 That at the Tri-City Hospital Emergency Room, patient S.B.  
19 learned for the first time that extended wear contact lenses  
20 should only be soaked in enzyme cleaner for approximately 10  
21 minutes. Patient S.B. had believed, and neither Long Tran or  
22 respondent had conducted patient education indicating otherwise,  
23 that her new contact lenses, like her old lenses, should be  
24 soaked for 10 hours in enzyme cleaner.

25 17. That on or about December 14, 1983, patient S.B.  
26 was introduced to and examined by respondent (the real Dr.  
27 /

1 Cohen) who ordered her a new pair of contact lenses which she  
2 received approximately one week later.

3 18. That in addition to the allegations contained in  
4 paragraphs 3 through 17, above, Long Tran conducted, at  
5 respondent's direction, eye examinations on numerous other  
6 patients visiting respondent's Carlsbad office.

7 19. That by reason of the matters alleged in  
8 paragraphs 3 through 18, above, Certificate of Registration  
9 number 6419 issued to respondent is subject to disciplinary  
10 action pursuant to section 125 of the Business and Professions  
11 Code in that respondent conspired with a person not licensed to  
12 violate provisions of the Business and Professions Code.

13 20. That by reason of the matters alleged in  
14 paragraphs 3 through 18, above, Certificate of Registration  
15 number 6419 issued to respondent is subject to disciplinary  
16 action pursuant to section 125 of the Business and Professions  
17 Code in that respondent with intent to aid or assist a person  
18 not licensed to violate provisions of the Business and  
19 Professions Code, acted as his agent or partner.

20 21. That by reason of the matters alleged in  
21 paragraphs 3 through 18, above, Certificate of Registration  
22 number 6419 issued to respondent is subject to disciplinary  
23 action pursuant to section 3090 of the Business and Professions  
24 Code in that such conduct constitutes unprofessional conduct.

25 22. That by reason of the matters alleged in  
26 paragraphs 3 through 18, above, Certificate of Registration  
27 number 6419 issued to respondent is subject to disciplinary



1 action pursuant to section 3090 of the Business and Professions  
2 Code in that such conduct constitutes a violation of Chapter 7  
3 (commencing with section 3090) and the rules and regulations  
4 promulgated by the Board of Optometry pursuant to Chapter 7 and  
5 in accordance with Chapter 3.5 (commencing with Section 11340)  
6 of Part 1 of Division 3 of Title 2 of the Government Code.

7 23. That by reason of the matters alleged in  
8 paragraphs 3 through 18, above, Certificate of Registration  
9 number 6419 issued to respondent is subject to disciplinary  
10 action pursuant to sections 3090 and 3101 of the Business and  
11 Professions Code in that respondent is guilty of unprofessional  
12 conduct by obtaining fees by fraud or misrepresentation.

13 24. That by reason of the matters alleged in  
14 paragraphs 3 through 18, above, Certificate of Registration  
15 number 6419 issued to respondent is subject to disciplinary  
16 action pursuant to sections 3090 and 3102 of the Business and  
17 Professions Code in that respondent is guilty of unprofessional  
18 conduct in that he employed an unlicensed optometrist to perform  
19 work for which a Certificate of Registration is required.

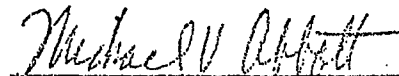
20 25. That by reason of the matters alleged in  
21 paragraphs 3 through 18, above, Certificate of Registration  
22 number 6419 issued to respondent is subject to disciplinary  
23 action pursuant to sections 3090 and 17500 of the Business and  
24 Professions Code in that respondent is guilty of unprofessional  
25 conduct in that he provided services and sold products based on  
26 untrue or misleading information.  
27 /

1 WHEREFORE, complainant prays a hearing be held and  
2 that the Board of Optometry make its order:

3 1. Revoking or suspending Certificate of  
4 Registration number 6419 issued to respondent Neville  
5 Stanley Cohen; and

6 2. Taking such other and further action as may  
7 be deemed proper and appropriate.

8 DATED: 1-7-86

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12 MIKE ABBOTT  
13 Executive Officer  
14 Board of Optometry  
15 Department of Consumer Affairs  
16 State of California

17 Complainant  
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